

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**RSA No.5820 of 2017 (O&M)
Date of Decision.01.11.2018**

Jaswinder Singh

.....Appellant

Vs

Ram Parkash and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Parminder Singh Rai, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

C.M. No.15387-C of 2017

For the reasons stated in the application, delay of 13 days
in re-filing the appeal is condoned.

Application is allowed.

RSA No.5820 of 2017

The appellant-plaintiff has not been successful in seeking permanent injunction *vis-à-vis* restraining the defendant No.1 from dispossessing from the suit property and defendant No.2 from transferring the electric connection of tube well bearing meter No.H21AP240020 from the name of defendant No.1 to the name of any other person.

As per the pleadings set out in the plaint, Jaswinder Singh plaintiff claimed that he along with his father Moola Singh was in joint possession of the suit property with defendant No.1 and entered into writing on 24.05.1971 by which defendant No.1, Ram Parkash had allowed them to use the electric connection in respect of

the suit land. However, in 1996 Ram Parkash, defendant No.1 sold his share to the father of the plaintiff, therefore, ownership of any connection attached thereof had also been conferred upon him. When the threat of dispossession was extended, cause of action arose to file the suit.

The defendants opposed the suit but admitted the sale deed and denied the writing of 1971. It was categorically stated that sale deed did not contain the payment of sale of tube well but it was only for land, thus, injunction could not have been granted.

The trial Court as explained above partly decreed the suit and decreed the counter claim *vis-a-vis* the tube well connection. The appellant-plaintiff was not successful in the appeal laid before the lower Appellate Court.

Mr. Rai, learned counsel appearing on behalf of the appellant submitted that there is gross illegality and perversity in the judgments and decrees of the Courts below. Once the land on which the tube well connection was installed had been sold, defendant No.1 cannot claim the ownership over the same as it was appurtenant thereof owing to the attachment. By taking the advantage of the contents of sale deed, defendant No.1 extended threat to disconnect the connection by not paying electricity charges to the electricity department, thus, produce of the plaintiff was likely to affect. It is in these circumstances, injunction was sought, therefore, the courts below ought not to have allowed the counter claim.

I am afraid the aforementioned argument of Mr. Rai is not sustainable, as the remedy for the plaintiff was to buy out the tube

well connection by paying extra price at the relevant point of time. The contents of the sale deed did not reflect sale of the tube well connection. As per records of the electricity board, connection is in the name of Ram Parkash, defendant No.1. It is in these circumstances, Courts below enjoined the defendants from forcible interference and dispossession and declined the relief of injunction qua transferring electric connection of tube well.

As an upshot of my finding, there is no fault with the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 01, 2018
Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No